

REMARKS

The proposed new claims 37-42 depend from previously allowed computer-readable medium claim 18 and correspond in scope to previously allowed method claims 2-7, respectively, as follows. Thus, the new claims do not present any new language, new limitation, or any new combination of limitations, that was not earlier examined. Further consideration is not required.

In accordance with M.P.E.P. 714.16:

(1) Why the amendment is needed. Due to the nature of computer-implemented inventions, effective coverage requires claims that are directed to volatile or non-volatile machine-readable storage medium storing one or more sequences of instructions which, when executed, cause the inventive techniques to be performed. Without such coverage, it may be possible for competitors to flagrantly exploit the invention by selling software for performing the inventive techniques, while yet avoiding direct infringement of the method claims that cover execution of the techniques. Clearly, the value of a patent must be questioned if it allows competitors to practice the most likely form of exploitation without fear of direct infringement. The new claims provide direct protection against those who would otherwise infringe by making, using, or selling computer readable media that contains software that performs the inventive techniques of the method claims.

(2) Why the proposed amended or new claims require no additional search or examination. Each of the proposed new claims is parallel to a method claim that has already been examined and allowed.

(3) Why the claims are patentable. The new claims are patentable for exactly the same reasons that their corresponding method claims are patentable.

(4) Why they were not earlier presented. The claims were not earlier presented to avoid redundancy and wasted effort, both on behalf of the Examiner and on behalf of the Applicant. Specifically, the new claims contain no new limitations. If the new claims had been earlier presented, then the Examiner would have had to determine the correlation between the method claims and computer-readable medium claims, and to apply the same analysis that the Examiner applied to the corresponding method claim. Further, any amendments would have to have been made identically to both sets of claims. The extra effort expended on duplicated review and analysis would have yielded no particular benefit.

For the foregoing reasons, entry and allowance of the amendments is respectfully requested. The Examiner is invited to contact the undersigned by telephone at (408) 414-1210 if it is believed that such contact would further the examination of the present application.

Respectfully submitted,

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